

6-10-2015

## Revelations on FBI Spy Fleet Cloud Surveillance Reform

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### Recommended Citation

Lauren Carasik, Revelations on FBI Spy Fleet Cloud Surveillance Reform, ALJAZEERA AMERICA (June 10, 2015), <http://america.aljazeera.com/opinions/2015/6/revelations-on-fbi-spy-fleet-cloud-surveillance-reform.html>

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# Revelations on FBI spy fleet cloud surveillance reform

*All government monitoring programs need transparency and public debate*  
June 10, 2015 2:00AM ET

by [Lauren Carasik](#) @LCarasik

On June 2 as President Barack Obama signed the USA Freedom Act into law, curtailing domestic surveillance, The [Associated Press](#) reported that the Federal Bureau of Investigation has been using a fleet of low-flying aircraft over U.S. cities for video and cellphone surveillance. And on June 4 The New York Times reported that the Obama administration secretly expanded the National Security Agency's [role in warrantless domestic cybersurveillance](#) in 2012.

While the new law imposes welcome restraints on warrantless intrusions into privacy, the battle to curb unchecked governmental power is far from over. The law contains its share of loopholes and reinforces much of the post-9/11 security state. And the challenges of engaging in robust public debate surrounding privacy and security are compounded by the administration's unprecedented secrecy.

The sweeping surveillance authority granted by the Patriot Act, passed in the aftermath of 9/11, included provisions that expired May 31. The vigorous fight over the continuation of mass data collection was propelled by the explosive revelations of whistleblower Edward Snowden two years ago, who disclosed the vast capabilities of NSA programs. Last month the 2nd Circuit Court of Appeals found that the Patriot Act [did not authorize](#) bulk surveillance.

The Freedom Act, which passed after a lengthy showdown between Senate security hawks and privacy advocates, was hailed as a significant step forward in reining in the NSA's authority to engage in warrantless data gathering. Among other reforms, the law ends the NSA's 14-year program of bulk collection of telephone data — instead requiring the agency to seek individual records from

telephone companies — and makes the Foreign Intelligence Surveillance Court, or FISA court, more transparent.

Still, many view the reform and court decision as a vindication for Snowden. The [New York Times](#) characterized the Freedom Act as “a cultural turning point for the nation.” But that pivot will require an ongoing, informed national conversation and vigilance to ensure the nation does not slip back into unfettered government power to encroach on the privacy of its citizens. Despite his role in prompting the debate about the NSA’s massive intrusions into privacy, Snowden is still in exile and [widely vilified](#).

The FBI [previously admitted](#) it has used aircraft for surveillance, saying they are utilized only in select cases. At a hearing in 2013, FBI Director [Robert Mueller](#) said the agency employed the aircraft in a “very, very minimal way, very seldom.” Yet the AP report contradicted the image of a rarely used resource. In fact, the FBI operates 50 aircraft and conducted 100 flights last month alone, covering 11 states and Washington, D.C. The FBI claims that the aircraft are utilized only for specific investigations, not the type of bulk data collection or mass surveillance for which the NSA has come under fire. But the AP’s investigation revealed that the program is far more expansive than previously known, and its use of fictitious companies to cover its tracks raises alarms about the program’s transparency.

The FBI planes generally conduct video surveillance at the request of its employees or state authorities, without the authorization of a judge. But some of its planes are equipped with advanced surveillance capabilities, including cell site simulator technology, which can identify individuals’ phones, even when they are not in use. Because some aircraft were targeting for long periods buildings that were not suitable for video surveillance, gathering of cellphone data is likely far broader than the bureau suggests.

**The debate about the right balance of liberty, privacy and security is far from over, and its resolution should concern all**

## Americans, not just privacy advocates and those with something to hide.

The FBI said it recently began seeking judicial approval for the use of cell site simulators. But it is not clear whether the court sanction is being sought for an individual search or more blanket authority. Criminal activity that was not the focus of the investigation can be gathered and passed along to local authorities. And information about the activities of innocents is also caught up in the monitoring. As such, the program lacks clear procedural and constitutional safeguards.

Some Americans believe that metadata collection and warrantless but targeted cybersurveillance are relatively innocuous for the innocent and are a small price to pay for security. But unwarranted intrusions on privacy should concern us all: Among other things, it affects our actions even if we don't realize it. As Salon's Falguni Sheth [observes](#), privacy "is crucial to personal exploration, creativity, dissent — those interests and thoughts that reflect the complexity of human beings and their ability to flourish and lead meaningful lives."

The revelations surfaced as a [Justice Department memo](#) sought to clarify its policies on the use of unmanned aircraft domestically, which it said must never be used "solely for the purpose of monitoring activities protected by the First Amendment." But the policies do not extend to piloted aircraft. And in a footnote, the department said the policy guidance is "intended only to improve the internal management of the department" and is not legally binding, providing little reassurance that the administration is willing to be held to even its own standards.

But the post-Snowden climate has opened the door for politicians to safely challenge the prior decade's acquiescence to security concerns, which have at times been [ratcheted up](#) to suppress dissent. The exposure of a secret domestic spy fleet elicited a swift response from two members of the Senate Judiciary Committee: Sen. Chuck Grassley, R-Iowa, [sent a letter](#) to FBI director James

Comey on June 1, and on June 3, Sen. Al Franken, D-Minn., a member of Judiciary Subcommittee on Privacy, Technology and the Law, echoed those concerns in a [letter](#) to the heads of the Justice Department and the FBI, seeking detailed information about the aerial surveillance program, including the specific technology, its frequency of use, authority and safeguards.

Meanwhile, the Obama administration continues to hamper the openness necessary for a fully informed debate about important national security and other issues by impeding disclosure of its secrets. The [administration](#) has blocked access to information through delays in processing Freedom of Information Act requests. Despite professing to oversee the [most transparent administration](#) in history, Obama has in fact presided over the most secretive one.

The Snowden disclosures ushered in a long overdue pushback against unfettered government power to spy on its citizens. But the debate about the right balance of liberty, privacy and security is far from over, and its resolution should concern all Americans, not just privacy advocates and those with something to hide.

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*The views expressed in this article are the author's own and do not necessarily reflect Al Jazeera America's editorial policy.*